

46 Am. Jur. 2d Judges § 112

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Judges

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IX. Disqualification to Act in Particular Case

B. Grounds for Disqualification

3. Relationship as Grounds for Disqualification

a. Relationship to Parties or Persons Interested

§ 112. Nature of judge's relationship to party as grounds for disqualification

[Topic Summary](#) | [Correlation Table](#) | [References](#)

West's Key Number Digest

West's Key Number Digest, [Judges](#)  45

Relationship by consanguinity, as the term implies, is relationship by ties of blood, while relationship by affinity is the relationship that exists between one spouse and the consanguinity of the other.¹ Thus, consanguinity measures the relationship by blood and affinity measures the relationship by marriage.² It has been found that a relationship by affinity does not exist where more than one marriage is required to establish it.³ On the other hand, a statute may disqualify a judge on the basis that the judge is related to a spouse of a party within the specified degree of kinship.⁴

Observation:

The Code of Judicial Conduct requires disqualification where the judge, the judge's spouse or domestic partner, or a person within the third degree of relationship to either of them, or the spouse or domestic partner of such a person is a party to the proceeding.⁵ For these purposes, a "domestic partner" means a person with whom another person maintains a household and an intimate relationship, other than a person to whom he or she is legally married. The "third degree of relationship" includes the following persons: great-grandparent, grandparent, parent, uncle, aunt, brother, sister, child, grandchild, great-grandchild, nephew, and niece.⁶

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Footnotes

- 1 Bliss v. Tyler, 149 Mich. 601, 113 N.W. 317 (1907).
- 2 Alabama State Personnel Bd. v. Garner, 4 So. 3d 545 (Ala. Civ. App. 2008).
- 3 Johnson v. State, 169 Tex. Crim. 146, 332 S.W.2d 321 (1960).
- 4 State v. American TV and Appliance of Madison, Inc., 151 Wis. 2d 175, 443 N.W.2d 662 (1989).
- 5 A.B.A. Code of Judicial Conduct, Canon 2, Rule 2:11(A)(2)(a).
- 6 A.B.A. Code of Judicial Conduct, Terminology.

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